

VZCZCXYZ0000
OO RUEHWEB

DE RUEHKT #0672/01 0721119
ZNY CCCCC ZZH
O 131119Z MAR 06
FM AMEMBASSY KATHMANDU
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0680
INFO RUEHBJ/AMEMBASSY BEIJING PRIORITY 4036
RUEHLM/AMEMBASSY COLOMBO PRIORITY 4301
RUEHKA/AMEMBASSY DHAKA PRIORITY 9380
RUEHIL/AMEMBASSY ISLAMABAD PRIORITY 2285
RUEHLO/AMEMBASSY LONDON PRIORITY 3690
RUEHNE/AMEMBASSY NEW DELHI PRIORITY 9354
RHEFDIA/DIA WASHDC PRIORITY
RHHMUNA/CDR USPACOM HONOLULU HI PRIORITY
RUEKJCS/SECDEF WASHDC PRIORITY
RUEAIIA/CIA WASHDC PRIORITY
RHEHNSC/NSC WASHDC PRIORITY

C O N F I D E N T I A L KATHMANDU 000672

SIPDIS

SIPDIS

DEPT FOR SCA/INS

E.O. 12958: DECL: 03/13/2016
TAGS: [PGOV](#) [PHUM](#) [NP](#)
SUBJECT: HEAD OF CORRUPTION INVESTIGATION AGENCY
INVESTIGATED

REF: 05 KATHMANDU 2077

Classified By: CDA John Schlosser. Reasons 1.4 (b/d).

CIAA Chief In Citizenship Scandal

¶1. (U) In a March 12 front page story, the Kathmandu Post reported that the Chief of the Commission for the Investigation of Abuse of Authority (CIAA), Surya Nath Upadhyay, was responsible for assisting a man in gaining false citizenship in 1993. The Kathmandu District Administration Office was holding the man, Lok Bahadur Bohara, in Hanamandoka jail for claiming citizenship through his (wealthy) uncle, rather than his father. Government investigations revealed that Upadhyay had recommended Bahadur's citizenship in 1993, when Upadhyay was acting water resources secretary, per the citizenship law, in which a special-class bureaucrat can recommend citizenship for individuals known to them. If found guilty of negligence in verifying a citizenship claim, Upadhyay could face up to five years in jail and/or 10,000 NR fine (USD 140). Police reported that their investigation was ongoing and no charges had yet been filed against Upadhyay. Nepali citizenship law has no statute of limitations for prosecution. Upadhyay stated, "I have to go through the documents first before commenting."

Negligence Possible: Citizenship Difficult to Prove

¶2. (C) Ratna Kaji Bajracharya, a Joint Secretary at the CIAA, explained that "it could be possible" that "out of negligence" Upadhyay had not verified Bohara's citizenship claim. (Note: In Nepal many people have difficulty claiming citizenship as they lack any documentation of their birth, and their parents' birth, marriage and death. Lower caste Hindus and ethnic groups also report that government officials sometimes refuse to register them due to discrimination. The Supreme Court ruled in September 2005 (ref A) that the children of an unmarried mother could gain citizenship, but the number of people in Nepal without citizenship is high in many rural areas, especially among the landless population. Proof of citizenship is needed in inheritance cases. End note.) Nevertheless, Bajracharya

termed the charges as "quite serious" because the CIAA had prosecuted a government lawyer in Kapilbastu in western Nepal for not taking legal action against any officials involved in fake citizenship scams. The CIAA had also investigated the Chief District Officer in Chitwan in a similar case, causing him to leave office. Even if Upadhyay decided to fight the charges and stay on, his term as head of the CIAA expired in October; no replacement had yet been named according to Bajracharya. As a constitutional body, Parliament should play a role in the appointment of a new CIAA chief. Without a sitting parliament, Bajracharya worried that there could be controversy over the appointment of a new CIAA chief.

Political Motivations

13. (C) Kedar Karka, an activist with local NGO Pro-Public, noted that there could be political motivation behind the claim. He stated that Kantipur Publications, the parent of the Kathmandu Post, was motivated to discredit Upadhyay. He explained that the CIAA, under Upadhyay's leadership, had prosecuted Kantipur for getting the government to refund money deposited when registering their TV license. Karka noted that the media had reported many scandals involving the CIAA in the past, but all had proven "to be empty." Thus, Karka cautioned that he was also "skeptical" in this case, claiming that it was too early to comment on the case until Upadhyay had been allowed time to look into and address the allegations.

Comment

14. (C) CIAA is the constitutional body mandated to improve governance in Nepal by addressing corruption among bureaucrats. Ensuring that the CIAA is receiving adequate support to effectively implement its mandate is one of the 2006 Leahy Amendment conditions. There have been many attempts to discredit CIAA in the past. Post will monitor how Upadhyay addresses these charges, which could be enough to be his undoing.

SCHLOSSER